



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Secretary of Natural Resources

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July 8, 2005

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

Intermet Archer Creek Foundry
Registration Number: 30121

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1300 *et seq.* and 10.1-1185, between the State Air Pollution Control Board and Intermet Archer Creek Foundry for the purpose of resolving certain violations of environmental law and/or regulations. These violations were addressed in Notice of Violations (NOV) dated July 19, 2004.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Intermet Archer Creek Foundry" means that this is a facility that is located in Campbell County and is certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the Internet Archer Creek Foundry facility, located in Campbell County, Virginia.
8. "Regulations" means the "State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution," which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

SECTION C: Findings of Fact and Conclusions of Law

1. Internet Archer Creek Foundry is an automated green sand facility, producing ductile iron castings up to 100 pounds. The facility currently has five permits: the June 25, 2001 permit to construct and operate a used/waste sand and baghouse handling system, a September 5, 2001 permit to construct and operate a slag processing plant, a April 19, 2002 permit to operate core machines, a April 19, 2002 permit to modify and operate a gray and ductile iron foundry, and a Title V permit to operate a gray and ductile iron parts manufacturing facility dated October 7, 2002. An amendment was made to the Title V permit on March 17, 2003.
2. During a June 8, 2004, inspection of the Internet Archer Creek Foundry facility, DEQ observed visible excess emissions from the Amrex (Cupola) and ETA Baghouses. Also during this inspection, DEQ observed that the Melting Furnace Baghouse differential pressure gauge measured 10" therefore indicating potential maintenance issues.
3. Condition V.A.5 (Cupola – Amrex Baghouse) of the March 17, 2003, Title V Permit states the following:

V. Process Equipment Requirements - Cupolas (ACE02) including the cupola particulate conditioning system (ACE04)

A. Limitations

5. Visible emissions from the fabric filter (ACDC02) which controls the cupolas (ACE02) including the cupola particulate conditioning system (ACE04) shall not exceed 5% opacity as determined by EPA Method 9 (reference 40 CFR 60, Appendix A). (9 VAC 5-80-110 and Condition 27 of 8/19/02 Permit)
4. At the time of this inspection, the cupola appeared to have excess emissions greater than 5 percent opacity therefore an 18-minute evaluation was conducted. The greatest 6-minute average was 12.7 percent opacity.
5. Condition VI.B.2 (Melting Furnace Baghouse) of the March 17, 2003, Title V Permit states the following:

VI. Process Equipment Requirements - Metal treatment operations (ACE05 through ACE09)

B. Monitoring

2. In order to minimize the duration and frequency of excess emissions due to malfunctions of air pollution control equipment, the permittee shall:

a. Develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance. These records shall be maintained on site for a period of five (5) years and shall be made available to DEQ personnel upon request.

b. Maintain an inventory of spare parts that are needed to minimize duration of air pollution control equipment breakdowns.
(9 VAC 5-80-110 and Condition 35 of the 8/19/02 Permit)

3. The permittee shall have available written operating procedures for the related air pollution control equipment. Operators shall be trained in the proper operation of all such equipment and shall be familiar with the written operating procedures. These procedures shall be based on the manufacturer's recommendations, at minimum. The permittee shall maintain records of training provided including names of trainees, date of training and nature of training. (9 VAC 5-80-110 and Condition 36 of the 8/19/02 Permit)

6. The Melting Furnace Baghouse is a 1-compartment baghouse with a differential pressure gauge. Pressure at the time of the June 8, 2004, inspection was 10", which is above the normal operating parameters for this unit, thus indicating a potential problem with the baghouse. Mr. Doug Davis stated that the operating range is between 4" and 6" for this unit. There were no visible emissions noted from the Melting Furnace Baghouse during this inspection.

7. Condition IX.A.3 of the March 17, 2003, Title V Permit states the following:

**IX. Process Equipment Requirements - Mold punchout / shakeout operations
(ACE16 through ACE19)**

A. Limitations

3. Visible emissions from mold punchout/shakeout operations (ACE16 through ACE19) shall not exceed 20% opacity except during one six-minute period in any one hour in which visible emissions shall not exceed 30% opacity as determined by EPA Method 9 (reference 40 CFR 60, Appendix A). Failure to meet the requirements of this section because of the presence of water vapor shall not be a violation of this section. (9 VAC 5-50-80 and 9 VAC 5-80-110)

8. Condition XII.A.4 of the March 17, 2003, Title V Permit states the following:

XII. Process Equipment Requirements - Mold sand and core sand handling systems (ACE24A, ACE24B, ACE25A1, ACE25A2, ACE25B1, and ACE25B2)

A. Limitations

4. Visible emissions from mold sand and core sand handling systems (ACE24A, ACE24B, ACE25A1, ACE25A2, ACE25B1, and ACE25B2) shall not exceed 20% opacity except during one six-minute period in any one hour in which visible emissions shall not exceed 30% opacity as determined by EPA Method 9 (reference 40 CFR 60, Appendix A). Failure to meet the requirements of this section because of the presence of water vapor shall not be a violation of this section. (9 VAC 5-50-80 and 9 VAC 5-80-110)
9. At the time of this inspection, the ETA baghouse appeared to have excess emissions greater than 20 percent opacity therefore an 18-minute evaluation was conducted. The greatest 6-minute average was 33.54 percent opacity. Please note that conditions IX.A.3 and XII.A.4 of the Title V Permit, as outlined in items 7 and 8 of this Section, describe two separate processes that are emitted through the ETA baghouse. The facility reported that on June 4, 2004, excessive rain fell in a short amount of time, thus causing a malfunction with the dust transport system, however, there was no malfunction reported to SCRO for this incident. Water was able to get inside the baghouse and caused the dust to become a very thick aqueous material, which is difficult or near impossible to transfer. This material can also dry over time creating a hard crust like material, which is also difficult or near impossible to transfer. Intermet Archer Creek Foundry stated that under the circumstances, the unit was unable to transfer the collected material, thus causing the dust levels in the hopper to build up and placed the dust closer to holes in the bags causing the excess opacity. Several bags were replaced in this unit as stated in item 12.
10. On June 12, 2004, a contractor was hired by Intermet Archer Creek Foundry and 49 bags were replaced in the ETA baghouse and on June 12-13, 2004, the contractor replaced 19 bags in the Cupola baghouse.
11. On June 14, 2004, another module from this unit was taken offline due to visible emissions. On June 19, 2004, this module was dye checked and 1 bag was replaced. On July 10, 2004, a contractor performed a dye check on the ETA baghouse and replaced an additional 60 bags in this unit.
12. On June 24, 2004, a contractor was hired by Intermet Archer Creek Foundry to work on the pulsing system with plans to replace all of the diaphragms in the pulsing valves, however, due to the bolts on the valves being rusted and breaking off, the decision was made to wait and replace all of the pulsing valves.
13. On July 6, 2004, a purchase order was issued for all new valves for this unit.

14. Mr. Doug Davis sent an email dated July 9, 2004, outlining the corrective action that has taken place since the onsite inspection conducted on June 8, 2004.
15. A follow-up site inspection was conducted on July 21, 2004. At the time of this inspection, the ETA and Amrex (Cupola) baghouses were observed in operation. Visible emissions were at 0 percent opacity. The magnahelic gauge for the Melting Furnace baghouse was also observed in operation. A new gauge was installed on July 10, 2004, however, it still continued to measure above the normal operating range, which is between 4" and 6", stated by Mr. Doug Davis. No visible emissions were noted from this unit during the inspection.
16. On August 31, 2004, a contractor replaced all of the pulsing valves on the Melting Furnace Baghouse. Internet Archer Creek Foundry stated that since the valves have been replaced, the differential pressure readings have been between 4" and 4.8". Although there were no visible emission limits exceeded during the inspection, the gauge not operating appropriately was associated with maintenance requirements for this unit as stated in condition VIB.2.a.
17. Internet Archer Creek Foundry violated 9 VAC 5-50-80 and 9 VAC 5-80-110 of the Regulations.
18. Internet Archer Creek Foundry submitted a SEP proposal on March 2, 2005. This proposal is to utilize an idle baghouse to control a portion of emissions from the north cooling operation.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority of §10.1-1307 D., §10.1-1309, §10.1-1184, §10.1-1316 C., and §10.1-1186.2 orders and Internet Archer Creek Foundry agrees that:

1. Internet Archer Creek Foundry shall pay a civil charge of \$15,170.00 dollars for the violations described in Section C of this Order. Internet Archer Creek Foundry may satisfy its obligations in part by performing the Supplemental Environmental Project (SEP) described in Appendix A of this order.
2. Internet Archer Creek Foundry shall make a payment to the Department of \$3,793.00 of this civil charge within thirty (30) days of the effective date of this Order *subject to the approval of the United States Bankruptcy Court for the Eastern District of Michigan*. Payment shall be by check, certified check, money order, or cashier check payable to "Treasurer of the Commonwealth of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
PO Box 10150
Richmond, Virginia 23240

- Internet Archer Creek Foundry shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this paragraph.
3. Internet Archer Creek Foundry shall implement the SEP as identified in Appendix A of this Order. The cost to Internet Archer Creek Foundry for the SEP shall be a minimum of \$11,377.00, which represents 75 percent of the total civil penalty. Internet Archer Creek Foundry shall submit quarterly SEP progress reports to the DEQ within 30 days following the end of the calendar quarter. Upon completion of the SEP, pursuant to Virginia Code §10.1-1186.2 and as described in Appendix A, Internet Archer Creek Foundry shall within 30 days, but no later than February 28, 2006, provide a completion report including actual SEP costs to the Department.
 4. In the event that the SEP is not performed as described in Appendix A, upon the Department's determination of non-performance and within 30 days of notification by the Department, the civil charge is due in full. Internet Archer Creek Foundry shall pay the amount of the SEP specified in paragraph 3 of this Section.
 5. Internet Archer Creek Foundry shall establish a defined operating range for the magnahelic gauge installed on the Melting Furnace Baghouse. This operating parameter shall be reported to the Department within 30 days of the effective date of this order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Internet Archer Creek Foundry, for good cause shown by Internet Archer Creek Foundry, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Internet Archer Creek Foundry by DEQ on July 19, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Internet Archer Creek Foundry admits the jurisdictional allegations, but does not admit factual findings, and conclusions of law contained herein.
4. Internet Archer Creek Foundry consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Internet Archer Creek Foundry declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
 6. Failure by Internet Archer Creek Foundry to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
 7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
 8. Internet Archer Creek Foundry shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Internet Archer Creek Foundry shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Internet Archer Creek Foundry shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.
- Failure to notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
 10. This Order shall become effective upon execution by both the Director or his designee and Internet Archer Creek Foundry. Notwithstanding the foregoing, Internet Archer

Creek Foundry agrees to be bound by any compliance date, which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Intermet Archer Creek Foundry. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Intermet Archer Creek Foundry, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below Internet Archer Creek Foundry voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of Sept. 7, 2005.

[Signature]
Director
Department of Environmental Quality

Internet Archer Creek Foundry voluntarily agrees to the issuance of this Order.

By: William D. Hapkins

Date: 9-6-05

Commonwealth of Virginia, City/County of Campbell

The foregoing document was signed and acknowledged before me this 6 day of

September, 2005, by William D. Hapkins, who is
(name)

Plant Manager of Internet Archer Creek Foundry on behalf of the Corporation.
(title)

Elvie B. Jean Smith
Notary Public

My commission expires: 12-31-06

APPENDIX A

SUPPLEMENTAL ENVIRONMENTAL PROJECT

SECTION I: DESCRIPTION OF THE PROJECT

1. Internet Archer Creek Foundry shall complete the following supplemental environmental project ("SEP"), which the parties agree is intended to secure environmental protection and improvements:

Internet Archer Creek Foundry proposes to utilize an idle baghouse to control a portion of emissions from the north mold cooling operation. The idle American Baghouse, prior to 2003, was used to collect emissions from the metal treatment operations. The American baghouse was then replaced with a more efficient baghouse. This American Baghouse is located very close to uncontrolled stacks from the north mold cooling operation. Visible emissions have been and continue to be emitted from these stacks. Internet Archer Creek Foundry proposes to connect this baghouse to two stacks on the north mold cooling area. This will eliminate visible emissions from these two stacks and potentially reduce the visible emissions on the remaining stacks.

2. Internet Archer Creek Foundry shall complete the SEP as follows:

The project will include completion of installation of the American Baghouse by January 31, 2006.

The SEP is more specifically described in the SEP Analysis Addendum (herein after, the "Addendum"), attached hereto and incorporated herein by reference.

SECTION II: PROJECT COST

Internet Archer Creek Foundry shall perform this SEP in partial settlement of the enforcement action initiated against Internet Archer Creek Foundry for violations listed in the Notice of Violation issued on July 19, 2004. Internet Archer Creek Foundry shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report. In the event that the SEP is not performed as described in this Appendix, upon notification by the Department, Internet Archer Creek Foundry shall pay the \$10,821.00 to the Department within 30 days of such notification according to the procedures specified in Section D of the Order.

SECTION III: REPORTS AND DOCUMENTATION

A. SEP Completion Report

Internet Archer Creek Foundry shall submit a SEP Completion Report to the Department within 30 days of the completion of the SEP. The SEP Completion Report shall contain the following information:

1. A detailed description of the SEP as implemented;
 2. A description of any operating problems encountered and the solutions thereto;
 3. Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
 4. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and,
 5. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).
- B. Internet Archer Creek Foundry shall submit all notices and reports required by this Consent Order to Craig R. Nicol, South Central Regional Office, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502 by first class mail.
- C. Internet Archer Creek Foundry shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to the Department pursuant to this Consent Order, and shall provide the documentation of any such underlying research and data to the Department within seven days of a request for such information.
- D. In all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, Internet Archer Creek Foundry, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

SECTION IV: DISPOSITION OF REPORT

- A. Following receipt of the SEP Completion Report described in Section III (A) above, the Department will do one of the following: (1) accept the SEP Completion Report or; (2) reject the SEP Completion Report, notify Internet Archer Creek Foundry in writing, of deficiencies in the SEP Completion Report and grant an additional (10) days in which to correct any deficiencies.
- B. If the Department elects to exercise option (2) above, it shall permit Internet Archer Creek Foundry the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this section within (10) days of receipt of such notification. The Department and Internet Archer Creek Foundry shall have a total of thirty (30) days from the receipt from the Department of the notification of objection to reach agreement on issues in contention. If agreement cannot be reached on any such issues within this thirty (30) day period, the Department shall provide a written statement of its final decision regarding such issues which decision shall be binding upon Internet Archer Creek Foundry. Internet Archer Creek Foundry agrees to comply with any requirements imposed by the Department as a result of any such deficiency or failure to comply with the terms of the Consent Order.

SECTION V: FAILURE TO PERFORM

- A. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of the DEQ.
- B. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting, the ability of the Department to seek any other remedies or sanctions available by virtue of Internet Archer Creek Foundry's violation of this Order or of the statutes and regulations upon which this Order is based, or for Internet Archer Creek Foundry's violation of any applicable provision of law.

SECTION VI: MISCELLANEOUS PROVISIONS

- A. Internet Archer Creek Foundry agrees that DEQ may inspect the Facility at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.
- B. Any public statement, oral or written, in print, film, or other media, made by Internet Archer Creek Foundry making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the Department of Environmental Quality for violations of 9 VAC 5-50-260, 9 VAC 5-50-30 and 9 VAC 5-80-1180 of the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution."
- C. This Order shall not be construed to constitute the Department's approval of the equipment or technology installed by Internet Archer Creek Foundry in connection with the SEP under the terms of this Order.
- D. Internet Archer Creek Foundry agrees not to deduct any of the expenses of the SEP from its income for tax purposes.

**SUPPLEMENTAL ENVIRONMENTAL PROJECT
ANALYSIS ADDENDUM
VA CODE §10.1-1186.2.A**

Case Name: Internet Archer Creek Foundry

Project Description: The project will include completion of installation of the American Baghouse to control emissions from the north mold cooling operation. The project will result in a reduction of visible emissions from this portion of the facility.

Initial Penalty Computation, Cost of SEP and Final Penalty:

Initial penalty	=	\$15,170.00
Estimated cost of SEP	=	\$17,900.00
SEP Credit	=	\$11,377.00
Final Penalty	=	\$3,793.00

SEP Not Otherwise Required by Law: The proposed project is being undertaken as a step to better control particulate emissions. Neither DEQ nor any local ordinance requires this project.

Geographic Nexus: Yes, the SEP is being undertaken at the same facility at which the violation occurred.

Qualifying Categories: This project falls under the categories of pollution reduction and monitoring.

Factors:

- (a) Internet Archer Creek Foundry confirms that tax credits are not being sought for this project.
- (b) Installation of the particulate monitor system will reduce the possibility of excess emissions (visible emissions).
- (c) The use of a monitoring system routed through a fabric filter is a recognized technique for controlling particulate emissions.
- (d) This project will have a positive environmental effect on any low income or minority populations in the immediate geographic area or the geographic area impacted by the SEP.
- (e) This project will reduce the particulate emissions from being placed directly into the atmosphere without first being processed through air pollution control equipment.
- (f) This project does fit the definition of pollution reduction.